IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

TODOR VORDANOV DRAGAN	§	
VS.	§	CIVIL ACTION NO. 1:11-CV-722
WARDEN, M. MARTIN	§	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner, Todor Vordanov Dragan, a federal prisoner currently confined at FCI Beaumont Low, proceeding *pro se*, filed this petition for writ of habeas corpus challenging the legality of his confinement.

The Court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends this petition be denied.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. Petitioner filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* Fed. R. Civ. P. 72(b).

After careful consideration, the Court finds the objections lacking in merit. As the Magistrate Judge correctly concluded, petitioner has not satisfied either prong of the *Reyes-Requena* test. *Reyes-Requena v. United States*, 243 F.3d 893 (5th Cir. 2001). Petitioner has failed to demonstrate he was convicted of a nonexistent offense and that his grounds for review were foreclosed by circuit law at the time when the claim should have been raised in petitioner's trial, appeal, or first Section 2255 motion. *Id*. at 904.

ORDER

Accordingly, the objections of petitioner are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is

ADOPTED. A final judgment will be entered in this case in accordance with the Magistrate

Judge's recommendations.

   SIGNED this the 23 day of **February, 2012.**

          Thad Heartfield
          United States District Judge